

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION**

GEICO CASUALTY COMPANY,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 4:18-cv-00197-DGK
	)	
PATRICIA HOLLANDSWORTH and	)	
RICHARD AGUILAR,	)	
	)	
Defendants.	)	

**ORDER GRANTING IN PART MOTION TO RECONSIDER ORDER  
ABSTAINING FROM AND DISMISSING CASE WITHOUT PREJUDICE**

This declaratory judgment action concerns insurance coverage for an automobile collision. Plaintiff GEICO Casualty Company seeks a declaration that the policy it issued to Daniel and Deborah Clymens does not cover an accident involving a moving truck driven by Defendant Patricia Hollandsworth. The Court previously decided (Doc. 76) to abstain from hearing the suit in deference to a pending parallel state proceeding. GEICO now moves (Doc. 78) the Court to reconsider its prior order. GEICO requests that the Court rule on the parties' cross motions for summary judgment or, in the alternative, stay the case instead of dismissing it without prejudice.

For the reasons set forth in its original order, the Court declines to reconsider its decision to abstain. The Court will, however, stay rather than dismiss the case. "A stay rather than dismissal is the preferred mode of abstention where the possibility of a return to the federal court remains." *Capitol Indem. Corp. v. Haverfield*, 218 F.3d 872, 875 n.2 (8th Cir. 2000). GEICO contends that the case may return because the company could succeed in having the parallel proceeding dismissed as unripe. Although Defendants argue that this is unlikely, the Court will not weigh the merits of the claims being litigated in state court. GEICO has shown a *possibility* of the case

returning, so the Court will not dismiss it. *See Royal Indem. Co. v. Apex Oil Co.*, 511 F.3d 788, 798 (8th Cir. 2008) (requiring a stay where the state court could potentially grant pending motions to dismiss in a parallel proceeding). Accordingly, the motion to reconsider is GRANTED IN PART and the case is STAYED pending further notice.

**IT IS SO ORDERED.**

Date: August 1, 2019

/s/ Greg Kays

GREG KAYS, JUDGE

UNITED STATES DISTRICT COURT